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REMARKS

The Examiner's rejection of claims 1-5, 7, 9, 10-16, 18 and 20 under 35 U.S.C.

102(e) as being anticipated by Banet, et al. is respectfully traversed. A 35 U.S.C. 102

rejection of anticipation requires that each and every element of the invention, if it is an

apparatus invention, or each and every element and step of a method, if it is a method

invention, be present in the reference of record.

It is applicant's position that the Banet, et al. reference is completely different in

structure and function than applicant's claimed invention, both as to the apparatus claims

and the method claims presented by the applicant as amended. The Banet, et al.

invention includes a method and apparatus for remotely characterizing a vehicle emission

performance. Applicant's method and apparatus allows a user facility that produces

breathing air to determine air quality that is certified. The Banet device uses a sensor in a

vehicle exhaust pipe. In applicant's claimed method and apparatus, a user that produces

breathing air such as for scuba tanks and firemen, gathers a sample of breathing air which

has to be certified as meeting purity standards remotely by a qualified third party.

Applicant's claimed invention saves immense amounts of time and ensures the safety and

high standards of compressed air facilities that provide breathing air through relatively

high speed data interchange on-line that alleviates having to take a breathing sample to

the third party facility. The Banet reference does not suggest the method and apparatus

used in the method to achieve applicant's extremely desirable breathing air test and

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certification process since the Banet, et al. device deals with a completely different

problem in a different environment.

The Banet device puts a sensor in the exhaust pipe which can then transmit data

concerning the exhaust to a remote location. The remote characterization of a vehicle

emission performance for EPA is a completely problem than the one faced by applicant

and solved by applicant in the amended claims presented herein. The third party

certification is immensely critical in certifying breathing air for public safety especially

of those who use air for scuba diving or firemen using bottled air. These devices must be

checked constantly and, in particular, the compressors used to ensure safe air at all times.

Applicant's improved solution, both as to the apparatus and method used, significantly

impacts the monitoring of breathing air by having almost instantaneous testing and read

back to the user's site that provides the air.

Applicant has amended claims 1 through 20, both as to apparatus and method, to

specifically emphasis the fact that applicant is measuring and treating breathing air.

Further, applicant includes the user computer and the collection of samples at the user's

facility, conversion to computer-readable data that goes to a server maintained by quality

control, third parties who can measure and certify the standards of breathing air that can

quickly send the test results back to the user and the user's computer. As stated above,

for 35 U.S.C. 102 anticipation, each and every element of the invention must be shown in

the reference. Banet, et al. does not show the user computer for receiving computer data

maintained at the user's site that includes a breathing air analysis module that can convert

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data to computer-readable data. Further, Banet, et al. does not have a server that is

maintained by a qualified third party for certification that is accessible on-line to the

user's computer. Thus, it is applicant's position that claims 1, 3, 5, 9, 11, 12, 14, 18 and

20 are allowable over Banet, et al.

The Examiner rejection of claims 6, 8, 10 and 19 under 35 U.S.C. 103 as

unpatentable over Banet is respectfully traversed. It is applicant's position that the

amended claims, as presented by applicant, clearly define an invention that is not

suggested to one of ordinary skill in the art reading Banet. The problem is different.

Applicant provides and claims remote sampling of the purity of breathing air from a user

facility that generates the breathing air directly to a third party facility for certification

that has a server specifically maintained to receive the purity data. Applicant's method

can quickly transmit the test results back to the user facility, saving literally up to weeks

in several instances so that a bad batch of air can be instantly recognized at the user

facility without having to wait weeks for results. There is no suggestion in Banet to test

breathing air in the apparatus and manner claimed by applicant in the amended claims.

It is believed that the claims as presented are allowable over the art of record.

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If there are any additional charges, including extension of time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,

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